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**MARSH, FISCHMANN & BREYFOGLE LLP**  
**8055 EAST TUFTS AVENUE**  
**SUITE 450**  
**DENVER CO 80237**

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**OFFICE OF PETITIONS**

In re Patent No. 6,123,389 :  
Issue Date: September 26, 2000 :  
Application No. 09/374,077 :  
Filed: August 12, 1999 :  
Attorney Docket No. 43638-00030 :

ON PETITION

This is a decision in response to a petition filed January 29, 2009, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 27, 2008 for failure to pay the 7 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner should note that the fees required to reinstate this patent on January 29, 2009 are \$2,480 for the 7 ½ year maintenance fee and \$1,640 for the surcharge. Effective October 2, 2008, certain fees within the United States Patent and Trademark Office were increased, including the Patent Maintenance Fees. Since the petitioner submitted \$2,360 for the 7 ½ year maintenance fee and \$1,640 for the surcharge, a difference of \$120 will be charged to the deposit account as authorized.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. However in accordance with 37 CFR 1.34 (a), the signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose

behalf he/she acts. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the person signing the petition; however, all future correspondence regarding this patent will be directed solely to the above noted correspondence address currently of record.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) is submitted.

The patent file is being forwarded to Files Repository.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.



Carl Friedman  
Petitions Examiner  
Office of Petitions

cc: JEFFREY DRAEGER  
INTEL CORPORATION  
2200 MISSION COLLEGE BLVD.  
SANTA CLARA, CA 95052